



**SECTION 106 COMPLIANCE
WITH
THE UNITED STATES DEPARTMENT OF ENERGY'S
ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT
PROGRAM UNDERTAKINGS:
TRAINING FOR GRANTEEES**

**Tennessee State Historic Preservation Office:
Review and Compliance Section**

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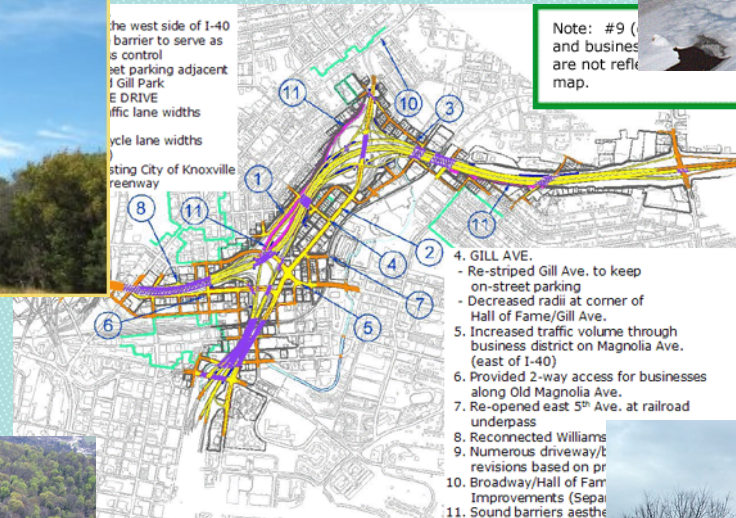
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EECBG Program: Section 106 Compliance

WELCOME!



the west side of I-40
barrier to serve as
is control
et parking adjacent
1 Gill Park
E DRIVE
ffic lane widths
ycle lane widths
sting City of Knoxville
reenway



Note: #9 (and businesses are not reflected on map.

4. GILL AVE.
 - Re-striped Gill Ave. to keep on-street parking
 - Decreased radii at corner of Hall of Fame/Gill Ave.
5. Increased traffic volume through business district on Magnolia Ave. (east of I-40)
6. Provided 2-way access for businesses along Old Magnolia Ave.
7. Re-opened east 5th Ave. at railroad underpass
8. Reconnected Williams
9. Numerous driveway/t revisions based on pr
10. Broadway/Hall of Fame Improvements (Sepa
11. Sound barriers aesthe



General Introduction: Your Responsibilities

EECBG Program: Section 106 Compliance

As a Sub-Recipient under the United States Department of Energy's EECBG Program administered by the Tennessee Department of Economic and Community Development, **you have taken on part of the responsibility of ensuring that ECD remains in compliance with Section 106 of the National Historic Preservation Act** as administered by the Tennessee State Historic Preservation Office (SHPO).

The Tennessee SHPO “**reflects the interests of the State and its citizens in the preservation of their cultural heritage,**” and is authorized by the State of Tennessee to “**...comment on and identify projects that will potentially impact state-owned and non-state-owned historic properties;....**”

EECBG Program: Section 106 Compliance

This presentation contains important material that **will help you meet your responsibilities** under Tennessee's Programmatic Agreement (PA) / Memorandum of Understanding (MOU) that has been executed to streamline Section 106 compliance. **It will focus on specific sections of the PA that assign various responsibilities to you.** Keep it handy and refer to it often.

EECBG Program: Section 106 Compliance

To fulfill your responsibilities under the Tennessee PA or MOU for each project you plan to fund, **you will be called upon to do a number of things.**

EECBG Program: Section 106 Compliance

First, you will be responsible for **CERTIFYING** that your **specific program activities** for each property either **ARE OR ARE NOT EXEMPTED** from further Section 106 review under the terms of the PA or MOU, **and also the AGE of the properties** you have slated for program activities, **IF THOSE ACTIVITIES ARE NOT EXEMPTED.**

EECBG Program: Section 106 Compliance

Second, for those program activities that are **NOT EXEMPTED** from further review **AND** also for those properties **FIFTY YEARS OLD OR OLDER** that you plan to weatherize **with NON-EXEMPTED ACTIVITIES**, you will be responsible for **ASSEMBLING THE DOCUMENTATION** required by the PA or MOU and **SUBMITTING IT** to the State Historic Preservation Office via **ECD** for review.

EECBG Program: Section 106 Compliance

THE FIRST ORDER OF BUSINESS is to compare what you are proposing to do against the “WAP Undertakings Exempt From Section 106 Review”, and the “SEP and EECBG Undertakings Exempt From Section 106 Review,” which are Appendices “A” and “B” to the PA or Appendix A to the MOU

EECBG Program: Section 106 Compliance

If what you are proposing to do to each property is listed as an exempted activity in either appendix to the PA or MOU, then all you have to do is make a note of which exemption(s) apply and notify the EECBG Program Manager in an email of your decision.

For example, if you are replacing lightbulbs in 10 city buildings, that activity would be exempt according to Appendix B, Section 3.b.

EECBG Program: Section 106 Compliance

If what you are proposing to do to a property is NOT listed as an exempted activity under either appendix to the PA or MOU, then you must go on to the NEXT ORDER OF BUSINESS in the streamlined Section 106 process.

For example, if you are replacing windows in a city building, you would move to the next step.

EECBG Program: Section 106 Compliance

That next step is to **determine whether the building is fifty years old or older**, because buildings that old **MAY** meet the minimum requirements for eligibility for listing in the National Register of Historic Places, and would therefore be of interest to the Tennessee SHPO.

EECBG Program: Section 106 Compliance

Under the terms of the PA and MOU, you will submit to ECD NATIONAL REGISTER ELIGIBILITY DOCUMENTATION on any property you have good reason to believe is fifty years old or older if you plan to retrofit the building in a manner not exempted by the appendices.

For example, if you are replacing windows in a building constructed in 1955 you'll need to move to the next step and submit documentation on your project for review by the SHPO.

Helpful Hint

EECBG Program: Section 106 Compliance

A good way to try to determine the age of a property is to use the **State of Tennessee Real Estate Assessment Data web page**. Here is the link:

<http://www.assessment.state.tn.us/>

Here is the link to a web page that tells you how to use the Real Estate Data web page:

<http://www.assessment.state.tn.us/HowToSearch.asp>

EECBG Program: Section 106 Compliance

Let's say the address of the property you want to weatherize is 9419 Continental Drive, Knoxville, Tennessee. Here is a photograph of the property.



EECBG Program: Section 106 Compliance

This property is older than fifty years, so it might be eligible for listing in the National Register of Historic Places. But, let's look at its surroundings.



EECBG Program: Section 106 Compliance

Given the much younger and much larger building just across the street, The SHPO would be less likely to determine that the property in question is National Register eligible.

BE SURE TO TAKE PHOTOGRAPHS OF EACH BUILDING'S SURROUNDINGS AS WELL AS THE BUILDING ITSELF.

EECBG Program: Section 106 Compliance

Now, let's say the address of the property you want to weatherize is 220 West Main Street, Jonesborough, Tennessee. Here is a photograph of the property.



EECBG Program: Section 106 Compliance

This property is also older than fifty years, so it might be eligible for listing in the National Register of Historic Places. Let's look at its surroundings.



EECBG Program: Section 106 Compliance

**Given the age and condition of the homes around it,
The SHPO would be more likely to determine that
the property in question is National Register
eligible.**

**ONCE AGAIN, BE SURE TO TAKE PHOTOGRAPHS
OF EACH BUILDING'S SURROUNDINGS AS WELL
AS THE BUILDING ITSELF.**

EECBG Program: Section 106 Compliance

Whether you learn the age of the property from the Tennessee Real Estate Data site or by some other means, you are obliged to **E-Mail NATIONAL REGISTER ELIGIBILITY DOCUMENTATION** of any property you suspect is fifty years old or older and not under an exempt activity to **ECD**, who will send it to the TN SHPO, who shall use their historic site files and other databases to make a National Register determination concerning it.

WHEN IN DOUBT AS TO THE AGE OF A BUILDING OR STRUCTURE, E-MAIL THE DOCUMENTATION TO ECD

EECBG Program: Section 106 Compliance

When preparing **NATIONAL REGISTER ELIGIBILITY DOCUMENTATION** to E-Mail ECD, be sure you have read Appendix D of the PA closely.

Below is the **NATIONAL REGISTER ELIGIBILITY DOCUMENTATION** the Tennessee SHPO will need:

- (a) the **STREET ADDRESS, CITY, AND COUNTY** of the building or structure;
- (b) **original 4x6 inch digital PHOTOGRAPHS** of the exterior and interior of the building or structure and its surroundings; and
- (a) the building or structure's estimated **DATE OF CONSTRUCTION**.

Tennessee SHPO Responsibilities to Review Your Submittal

EECBG Program: Section 106 Compliance

**This is the E-Mail address to use when submitting
NATIONAL REGISTER DOCUMENTATION to ECD:**

Brooxie.carlton@tn.gov

The basis upon which the SHPO judges whether a property has sufficient significance and National Register of Historic Places eligibility to be subject to further Section 106 review of your project effects upon it under this program reflects our determination of its **historic context (significance through integrity and association) and its age.**

EECBG Program: Section 106 Compliance

The first benchmark we use is **age**. Properties less than fifty years old are exempted from further evaluation. **Be sure you have done due diligence** to support your determination of the property's age.

The second benchmark is **association**, either with historic events, historic people, significant architecture, or significant information about the past. **Be sure you have done due diligence** to find any such associations.

The third benchmark is **integrity**. Integrity is the ability of a property to convey its significance. **Be sure your photographs document the current condition of the building** so the SHPO can assess its integrity.

EECBG Program: Section 106 Compliance

The SHPO will review the DOCUMENTATION you have submitted, and, within 3 business days, provide a written response (via E-Mail) regarding the building's National Register eligibility.

In the case of an emergency request as defined in the PA, the SHPO will provide a response within 1 business day.

EECBG Program: Section 106 Compliance

IF YOU DO NOT SUBMIT ADEQUATE DOCUMENTATION, YOU WILL HAVE TO RE-SUBMIT ALL REQUIRED DOCUMENTATION AND WAIT FOR AN SHPO FINDING BEFORE PROCEEDING WITH THE WORK.

EECBG Program: Section 106 Compliance

Factors that inform the SHPO's determination of National Register of Historic Places eligibility include:

- **identification of the property as having previously been determined eligible,**
- **results from historic property survey reports,**
- **identification of the property as being designated significant by a municipal historic zoning commission, and/or**
- **identification of the property as being designated significant by a local or regional historic preservation planner.**

**If the SHPO
Determines the
Property IS NOT
National Register
Eligible**

EECBG Program: Section 106 Compliance

The SHPO will inform you by E-Mail **within 3 days**, and **no further action is required** for the Section 106 review of that undertaking, **and projects may proceed. Keep this E-Mail** as documentation of completion of the Section 106 review process.

**If the SHPO
Determines the
Property IS National
Register Eligible**

EECBG Program: Section 106 Compliance

The SHPO will then assess your proposed project against the Criteria of Adverse Effect codified at 36 CFR 800.5. This assessment shall center on whether your proposed activity would alter, directly or indirectly, any of the characteristics of the historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's

- location,**
- design,**
- setting,**
- materials,**
- workmanship,**
- feeling, or**
- association.**

EECBG Program: Section 106 Compliance

Specifically the SHPO will focus its analysis on whether there is proposed

- physical destruction of or damage to all or part of the property, or
- any alteration of the property, including rehabilitation or repair that is not consistent with the Secretary of the Interior's' "Standards for The Treatment of Historic Properties" (36 CFR Part 68) and applicable guidelines.

The SHPO will be assessing whether the proposed project will

- change the character of the property's use,
- alter any significant physical features within the property's setting that contribute to its historic significance, or
- introduce any visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features.

SHPO

**Determinations and
Findings and Your
Responsibility**

Once again...

If the SHPO determines that the property **IS NOT eligible** for inclusion in the National Register of Historic Places, the SHPO Review and Compliance section will inform you by E-Mail **within 3 days**, and **no further action is required** for the Section 106 review of that undertaking **and projects may proceed. Keep this E-Mail** as documentation of completion of the Section 106 review process.

However...

If the SHPO determines that the property IS eligible for inclusion on the National Register of Historic Places, he will inform you within 3 business days by return E-Mail, and you shall then provide by E-Mail to the SHPO a **PROJECT NARRATIVE/WORK WRITE-UP** in sufficient detail regarding the work to be performed on the property that is subject to SHPO review, including a list of all materials to be used.

The **PROJECT NARRATIVE/WORK WRITE-UP** must enable a reader unfamiliar with the undertaking or its location to gain a full understanding of the undertaking and all of its elements and their potential to affect directly and indirectly the subject historic property.

EECBG Program: Section 106 Compliance

However...

**To save time, YOU MAY E-MAIL THE SHPO THE
PROJECT NARRATIVE/WORK WRITE UP
WHEN YOU E-MAIL THE NATIONAL
REGISTER ELIGIBILITY DOCUMENTATION.**

EECBG Program: Section 106 Compliance

The SHPO will review and comment upon this project narrative/work write up by E-Mail back to you within 3 business days from the date of receipt with a finding either that the project as currently proposed **WILL NOT ADVERSELY AFFECT the historic property or that the project **WILL ADVERSELY AFFECT** the historic property.**

EECBG Program: Section 106 Compliance

If you receive a **NO ADVERSE EFFECT** E-Mail from the SHPO, **you may begin work. Keep this E-Mail** as documentation of completion of Section 106 review.

If you receive an **ADVERSE EFFECT** E-Mail from the SHPO, the appropriate **SHPO staff will consult** promptly with you to **RESOLVE THE ADVERSE EFFECT** in accord with stipulations in the PA. In that event, **you should immediately contact the SHPO Review and Compliance Section to set up a consultation appointment.**

EECBG Program: Section 106 Compliance

During this consultation, we all will be striving toward a positive resolution that complies with “The Secretary of the Interior's Standards for the Treatment of Historic Properties” and appropriate National Park Service “Preservation Briefs”.

RESOLVING ADVERSE EFFECT ALMOST ALWAYS INVOLVES SELECTING AN ALTERNATIVE MATERIAL OR METHOD THAT WOULD AVOID OR MINIMIZE THE ADVERSE EFFECT.

For example, in replacing windows in an historic courthouse, you could be required to use windows that look more like the original windows.

EECBG Program: Section 106 Compliance

As soon as we resolve the adverse effect, the SHPO will E-Mail you a confirmation. Keep this E-Mail as documentation of completion of the Section 106 Review process.

**As a point of
information...**

EECBG Program: Section 106 Compliance

The SHPO is most concerned about such things as

- **screens, window films, and reflective materials,**
- **caulks and sealants,**
- **roofs,**
- **replacement windows, and**
- **storm doors and windows.**

If you plan to propose any of these weatherization activities, it would be best to design them so they adhere to the “Secretary of the Interior’s Standards for Rehabilitation”.

EECBG Program: Section 106 Compliance

The SHPO is least concerned about such things as

- **thermal insulating materials for walls, floors, ceilings, attics, roofs, pipes, ducts;**
- **equipment such as boilers and furnaces;**
- **weather stripping;**
- **heat exchangers, boiler/furnace control systems;**
- **water heater modifications, replacement water heaters, solar water heating systems;**
- **waste heat recovery devices;**
- **boiler repair and modifications, heating and cooling system repairs and tune-ups;**
- **replacement furnaces, boilers, and wood stoves.**

**Reference Material:
The Secretary Of The
Interior's Standards For
Rehabilitation**

STANDARD 1

A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships

STANDARD 2

The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

STANDARD 3

Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

STANDARD 4

Changes to a property that have acquired historic significance in their own right will be retained and preserved.

STANDARD 5

Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

STANDARD 6

Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

STANDARD 7

Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

STANDARD 8

Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

STANDARD 9

New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

STANDARD 10

New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

EECBG Program: Section 106 Compliance

**IF YOUR PROJECT THAT HAS BEEN
PROPOSED FOR A NATIONAL
REGISTER ELIGIBLE PROPERTY MEETS
THESE STANDARDS, THE SHPO WILL
MOST LIKELY MAKE A FINDING OF NO
ADVERSE EFFECT, AND YOUR
PROJECT MAY PROCEED.**

YOUR SECTION 106 REVIEW FLOW CHART

Section 106 Regulations Flow Chart

**Compare a project
against the
Exemptions list in the
PA
or MOU**

Project is exempt. No further review is necessary. Note the exemption and inform the EECBG program manager.

Project is not exempt. Verify the property's date of construction.

Section 106 Regulations Flow Chart

Project is not exempt. Verify the property's date of construction.

Property was built before 1960.
Submit NATIONAL REGISTER
ELIGIBILITY DOCUMENTATION to
ECD by E-Mail for a 3 business day
review and comment

Property was built after 1960. No further review is necessary. Note the date of construction and inform the EECBG program manager.

Section 106 Regulations Flow Chart

**Property was built
before 1960. Submit
required documentation
to ECD by email for a 3
business day review and
comment**

SHPO response E-Mail that the
property IS National Register eligible.
Submit PROJECT
NARRATIVE/WORK WRITE-UP for a
3 day SHPO review.

SHPO response E-Mail that
the property IS NOT
National Register eligible.
No further review is
necessary. The project
may proceed as proposed.
Keep this E-Mail as
documentation of
completion of the Section
106 review process.

Section 106 Regulations Flow Chart

SHPO response E-Mail that the property IS National Register eligible. Submit narrative/write-up for SHPO review.

SHPO response E-Mail that the project WILL ADVERSELY AFFECT the National Register eligible property. Resolve the adverse effect.

SHPO response E-Mail that the project WILL NOT adversely affect the National Register eligible property. No further review is necessary. The project may proceed as proposed. Keep this E-Mail as documentation of completion of the Section 106 review process.

EECBG Program: Section 106 Compliance

Your Project by Project Checklist

EECBG Program: Section 106 Compliance

Checklist 1

COMPARE what you are proposing to do to each property on your list against appendices A and B to the PA or MOU.

Listed as an exemption _____

NO FURTHER REVIEW IS NECESSARY. NOTE THE EXEMPTION AND INFORM THE EECBG PROGRAM MANAGER

Not listed as an exemption _____

VERIFY THE PROPERTY'S DATE OF CONSTRUCTION

Checklist 2

Verify the property's date of construction

Built **after** 1960 _____

**NO FURTHER REVIEW IS NECESSARY. NOTE THE AGE AND
INFORM THE EECBG PROGRAM MANAGER**

Built **before** 1960 _____

**SUBMIT NATIONAL REGISTER ELIGIBILITY DOCUMENTATION
TO ECD BY EMAIL for a 3 business day review and comment**

EECBG Program: Section 106 Compliance

Checklist 3

Built **before** 1960_____

SUBMIT NATIONAL REGISTER ELIGIBILITY DOCUMENTATION TO ECD for
a three business day review and comment

This is the **documentation** the Tennessee SHPO will need:

- _____ a **COPY OF YOUR COVER LETTER REQUESTING SECTION 106 REVIEW** of the National Register eligibility of the building or structure;
- _____ the **STREET ADDRESS, CITY, AND COUNTY** of the building or structure;
- _____ several **ORIGINAL 4X6 INCH DIGITAL PHOTOGRAPHS** of the exterior and interior of the building or structure and its surroundings; and
- _____ the building or structure's estimated **DATE OF CONSTRUCTION**.

Checklist 4

**YOU MAY SUBMIT A PROJECT NARRATIVE/WORK WRITE-UP
ALONG WITH THE NATIONAL REGISTER ELIGIBILITY
DOCUMENTATION**

THE PROJECT NARRATIVE/WORK WRITE-UP should document the project in sufficient detail regarding the work to be performed on the property that is subject to SHPO review, including materials to be used. The work write-up must enable a reader unfamiliar with the undertaking or its location to gain a full understanding of the undertaking and all of its elements and their potential to affect directly and indirectly the subject historic property.

Outcomes

EECBG Program: Section 106 Compliance

What you can expect after 3 business days IF you E-Mail the required documentation to ECD?

An SHPO E-Mail response making either a DETERMINATION OF NATIONAL REGISTER ELIGIBILITY AND/OR A FINDING OF PROJECT EFFECT.

**What you can expect after 3 business days
IF you E-Mail the required
documentation to ECD?**

**If the SHPO determines the property IS NOT National
Register eligible...**

**NO FURTHER REVIEW IS NECESSARY. The project may
proceed as proposed. Keep this E-Mail as
documentation of completion of the Section 106
review process.**

EECBG Program: Section 106 Compliance

**What you can expect after 3 business days
IF you E-Mail the required
documentation to ECD?**

**If the SHPO determines the property IS National Register eligible, and if
the SHPO finds your current weatherization proposal constitutes
NO ADVERSE EFFECT...**

**NO FURTHER REVIEW IS NECESSARY. The project may proceed as
proposed. Keep this E-Mail as documentation of completion of the
Section 106 review process.**

What you can expect after 3 business days IF you E-Mail the required documentation to ECD?

If the SHPO determines the property IS National Register eligible, and if the SHPO finds your current weatherization proposal constitutes AN ADVERSE EFFECT...

EXPERT AND PROMPT HELP from the SHPO as you consider and select alternative materials and methods that will avoid or minimize project-related adverse effects.

**What you can expect after 3 business days
IF you E-Mail the required
documentation to ECD?**

**IF THE SHPO DETERMINES THE PROPERTY IS
NATIONAL REGISTER ELIGIBLE, AND IF THE SHPO
FINDS YOUR CURRENT WEATHERIZATION
PROPOSAL CONSTITUTES AN ADVERSE EFFECT,
AND IF THE ADVERSE EFFECT IS UNSOLVED...**

**THE CASE WILL BE REFERRED TO THE U. S.
DEPARTMENT OF ENERGY FOR RESOLUTION.**

EECBG Program: Section 106 Compliance



In Conclusion:

REMEMBER, you have been assigned the important responsibility of taking all the steps required by the PA to ensure that the Tennessee Department of Economic and Community Development remain in compliance with Section 106 of the National Historic Preservation Act. Any failure on your part to follow all the steps listed in the PA could jeopardize not only your grant but also the EECBG Program as a whole.

EECBG Program: Section 106 Compliance

You may direct questions to:

**Joseph Y. Garrison, PhD
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Tennessee Historical Commission
2941 Lebanon Road
Nashville, Tennessee 37243-0442**

**Joseph.Garrison@tn.gov
(615)532-1550-103 phone
(615)532-1549 fax**

EECBG Program: Section 106 Compliance

THANK YOU!

